

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY EVERETT, et al.,

Plaintiffs,

Civil Action No. 11-CV-11844

vs.

HON. BERNARD A. FRIEDMAN

SHAHEEN, JACOBS & ROSS, P.C., et al.,

Defendants.

ORDER ACCEPTING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is presently before the court on defendants' motion to dismiss [docket entry 6] and plaintiffs' motion for summary judgment [docket entry 10]. Magistrate Judge Mark A. Randon has submitted a report and recommendation ("R&R") in which he recommends that the court grant defendants' motion and deny plaintiffs' motion as moot. Plaintiffs have filed objections to the R&R.

The court has reviewed the file in this matter, including the complaint, the motion papers, the R&R and plaintiffs' objections. For the reasons explained in the R&R, plaintiffs have failed to state a claim. The main premises of the complaint, which is rambling and largely incoherent, appear to be that defendants did not properly verify the debt in question (i.e., plaintiffs' mortgage loan) and that defendants violated Michigan's foreclosure by advertisement statute because they are themselves neither the owners of the note nor the mortgagees. Both premises are patently frivolous. Plaintiffs do not dispute the existence of the debt, and so it is unclear why they insisted, and continue to insist, on "verification." But regardless of plaintiffs' motives, defendants

did verify the debt when plaintiffs demanded that they do so. As for plaintiffs' second premise, plaintiffs overlook the fact that defendants were not themselves foreclosing parties but merely represented, as legal counsel, the noteholder and mortgagee, TCF National Bank, who by statute clearly were entitled to foreclose the mortgage when plaintiffs defaulted on their repayment obligations.

At page 2 of their objections to the R&R, plaintiffs assert that they "have incurred much personal[] and financial damages as a result of Defendants, pursuant to the violations of FDCPA . . . and in their continued and unconscionable activities against Plaintiffs." Respectfully, the court suggests that any financial damage plaintiffs may have suffered in this matter has nothing to do with defendants. As the magistrate judge correctly notes, defendants have done nothing more in this matter than represent their client, plaintiffs' mortgage lender, who is enforcing its contractual and statutory right to foreclose the mortgage and sell the collateral following plaintiffs' failure to repay the mortgage loan as they had agreed. Accordingly,

IT IS ORDERED that Magistrate Judge Randon's R&R is hereby accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that defendants' motion to dismiss [docket entry 6] is granted.

IT IS FURTHER ORDERED that plaintiffs' motion for summary judgment [docket entry 10] is denied as moot.

IT IS FURTHER ORDERED that plaintiffs' motion for issuance of an emergency temporary restraining order [docket entry 17] is denied.

S/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

Dated: October 12, 2011
Detroit, Michigan